



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Dr. John M. Dyer - Household Goods Excess Weight -
Carrier's Guaranteed Price Pledge
File: B-223799
Date: January 4, 1988

DIGEST

An officer of the Public Health Service selected a motor common carrier to transport his household goods. The officer alleges that the carrier represented that the shipment's weight would not exceed the officer's authorized weight allowance of 13,500 pounds and that a Guaranteed Price Pledge based on the weight was quoted. The shipment's actual net weight, however, as determined from certified weight tickets, was 21,060 pounds. After adjustments for crating and professional books, the certifying officer determined that the officer was liable for 4,454 pounds of excess weight. Where facts show that the Guaranteed Price Pledge was based on tender rates applied to a prudent estimate of the shipment's actual net weight, the determination of excess weight charges is proper. The officer's reliance on the carrier's erroneous low weight estimate does not provide a basis for relief from liability for excess weight charges since the government's legal obligation is to pay the charges for transporting only the officer's authorized weight allowance.

DECISION

An authorized certifying officer of the Department of Health & Human Services requests a decision on the question of whether a commissioned officer of the Public Health Service is liable for a portion of a carrier's guaranteed price for transporting his household goods, even though the price, purportedly, was based on the officer's authorized weight allowance.^{1/} We conclude that the officer is liable for the shipment's net weight that was in excess of his authorized weight allowance.

^{1/} The request was made by J. R. Burkett, Certifying Officer, Office of Regional Director, Region VI, Department of Health & Human Services, 1200 Main Tower Building, Dallas, Texas 75202.

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Facts

Incident to a permanent change of station, Dr. John M. Dyer had his household goods transported from Glen Ellyn, Illinois, to Dallas, Texas, in late 1985. Dr. Dyer was on temporary duty at the time so his wife made the arrangements for the shipment on a Government Bill of Lading after consulting an agency booklet, which suggested that van carriers are appropriate for the transportation of uncrated household goods. The booklet also indicated that Dr. Dyer's maximum weight allowance for his grade was 13,500 pounds. Mrs. Dyer selected an agent of Allied Van Lines, Inc., to perform the services, in light of satisfactory personal experience the Dyers had with the carrier on previous ordered transfers.

The Dyers indicate that a representative of the carrier came to their home to estimate the shipment. They state that:

"Mr. Larry Jackson came to Mrs. Dyer's home, went through every room and closet, measured all of the larger pieces of furniture etc. Mrs. Dyer indicated that this was a move pursuant to Commissioned Officer (JTR) procedures, that the limit was 13,500# and that she was concerned that the allowance not be exceeded. Mr. Jackson indicated that he had 10 years experience estimating moves, that he thought the weight would be about 12,000# and gave Mrs. Dyer the verbal assurance that 'If you are over this weight, we will ship all you have, at the estimated cost.' Mrs. Dyer repeated 'you will ship all we have at the estimated cost' and he responded 'yes.' Mrs. Dyer indicated all of the crating (antiques) and packing that would be necessary and Mr. Jackson completed an Allied form titled 'Guaranteed Price Pledge' indicating the weight at 12,500# including 1,000# of professional books. He indicated the 'Total Guaranteed Price' as \$8,532.71."^{2/}

^{2/} The record contains a copy of the form showing that it was altered to substitute 17,500 pounds for 12,500 pounds, as the estimated weight.

The shipment was received by the carrier on December 31, 1985, and delivered on January 6, 1986. The carrier billed the government \$9,179.87.^{3/} The bill referred to the carrier's tariff and a distance of 909 miles, but no actual weight or transportation rate was shown. The carrier's voucher notes that the amount was claimed "per Guaranteed Price Pledge."

The certifying officer points out that this was the first voucher he had received based on a Guaranteed Price Pledge. The certifying officer questioned the billing basis, since the charges did not appear to be based on the shipment's actual weight. He notes that when the carrier originally submitted its voucher the weight tickets were withheld on the theory that since the billing was based on the Guaranteed Price Pledge, weight tickets were unnecessary. When the tickets were submitted upon request, the certifying officer found that the actual net weight of the shipment (before adjustments) was 21,060 pounds. The carrier's billing supervisor responded to the certifying officer's inquiry about the weight and charges as follows:

"The weight of 21,060 lbs. is correct for this shipment and is supported by a review of the inventory. An inventory count shows 454 items and since an industry average of 40 lbs. per item would give a 'guesstimated weight' of 18,160 lbs., the weight of 21,060 lbs., which was obtained on certified scales at the time of loading, is the proper weight to be used when rating this shipment."

^{3/} Although the Guaranteed Price Pledge shown on the form presented to Mrs. Dyer was \$8,532.71, the record shows that the increased amount of \$9,179.87 that was billed reflects subsequent adjustments for additional services. Although Dr. Dyer disputes the basis for the increase, it appears that the agency agreed to the adjustments and the General Services Administration informally advised us that the carrier did not overcharge the government.

The certifying officer proceeded to collect the excess charges.^{4/} Dr. Dyer objected to being charged with excess weight, asserting that the Guaranteed Price was based on 12,500 pounds and that he and Mrs. Dyer had accepted, in good faith, the carrier's representation that the transportation charges would be based on 12,500 pounds.

An opinion rendered by the Per Diem, Travel and Transportation Allowance Committee, based on the circumstances of Dr. Dyer's move, concluded that no excess costs should be involved because, in its view, the carrier's charges were based on only 12,500 pounds; therefore, the government did not absorb any costs for excess weight.^{5/} In view of these arguments the certifying officer asks for guidance in determining whether excess costs were incurred by the government in cases involving a Guaranteed Price Pledge by a carrier.

Discussion

There is no apparent dispute over the law and implementing regulations. The government's maximum transportation obligation is the cost of one through household goods movement at the prescribed weight allowance at the lowest applicable rate in a carrier's tariff. See 37 U.S.C. § 406(b) and Volume 1, Joint Travel Regulations (JTR), para. M8007-1 (Change No. 392, October 1, 1985). Weights exceeding the prescribed weight (after authorized adjustments) are properly chargeable to the shipper. We have recognized that the weights prescribed by the regulations are designated as "actual net weights" and not arbitrary estimates. See 1 JTR

^{4/} Although a net weight of 21,060 pounds was derived from a difference between the gross and tare weights shown on the weight tickets, the "actual net weight" for determining excess weight charges was computed to be 17,954 pounds, which reflects reductions of 10 percent for crating and 1,000 pounds for professional books. Excess weight of 4,454 pounds was determined by subtracting Dr. Dyer's weight allowance of 13,500 pounds from the adjusted net weight of 17,954 pounds. The excess weight charges of \$1,913.53 (less insurance) resulted.

^{5/} Memorandum for the Surgeon General, United States Public Health Service, PDTATAC/0230N, dated May 14, 1986.

paras. M8002 and M8003 (Change 376, June 1, 1984); 49 Comp. Gen. 255 (1969).

Notwithstanding the allegations concerning representations made by the carrier's agent that the Guaranteed Price Pledge was based on Dr. Dyer's authorized weight, the record indicates that the carrier's charges were based on a weight that closely approximates the actual net weight computed by the certifying officer on the basis of the weight tickets. The carrier's billing supervisor explained that the inventory of the household goods produced the "guesstimated weight" of 18,160 pounds, and clearly implied that published tariff rates were applied to a prudent estimate of the shipment's actual weight, rather than an arbitrary lower weight of 12,500 pounds.^{6/} This conclusion is further supported by information informally received from GSA, which also shows that the carrier did not overcharge for its services.

GSA's information indicates that the applicable tender rate applied to 18,160 pounds would produce total charges of about \$8,593.24. Charges computed on the same basis for a weight of 12,500 pounds would have been only \$6,023.36, an amount that is approximately \$3,000 less than the carrier's Guaranteed Price Pledge. From these circumstances, it is reasonably clear that the cost to the government would have been approximately \$2,000 less if the weight of Dr. Dyer's shipment was in fact only 12,500 pounds (or even 13,500 pounds).

In this case it is alleged that the carrier represented that the weight of the shipment was less than the actual weight. However, the Guaranteed Price Pledge quoted to the Dyers represented the charges provided in the carrier's tariff for a close approximation of the actual weight of the shipment. In any event, a certified actual weight which is considerably more than the estimated weight does not provide a basis to relieve a shipper of liability for the additional cost of transporting the excess weight of household goods. See Joseph S. Montalbano, B-197046, Feb. 19, 1980; Robert Y. Ikeda, B-181631, Oct. 9, 1974; see also Rayburn C. Robinson, Jr., B-215221, Sept. 5, 1984.

^{6/} The carrier's tariff provisions for a Guaranteed Price Pledge are contained in item 803 of Household Goods Carriers Bureau Exceptions Tariff HGB 104-B.

Conclusion

The law and regulations require that the determination of whether weight was transported in excess of the shipper's authorized weight allowance be made on the basis of the shipment's actual net weight as determined from certified weight tickets. This requirement remains applicable where a common carrier bills the government on the basis of a Guaranteed Price Pledge. Thus, while it is unfortunate that Dr. Dyer and his wife were under the impression that the weight of the household goods shipped was within the authorized weight allowance, the fact remains that the carrier did transport household goods in excess of the authorized weight and the price quoted to the Dyers was based on a close approximation of the actual weight of the shipment. Under these circumstances we conclude that Dr. Dyer is liable for the costs of the shipment which exceeded the costs for the authorized weight allowance. The certifying officer here properly determined the net weight and excess weight of Dr. Dyer's household goods shipment on the basis of the carrier's certified weight tickets.

Wilton J. Hoover
for Comptroller General
of the United States